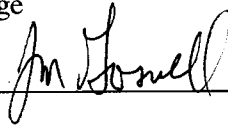


REPORT

DATE: April 7, 2005
TO: The Transportation and Communications Committee (TCC)
FROM: Charlotte Pienkos, Government Affairs Analyst
Phone: (213) 236-1811 E-Mail: pienkos@scag.ca.gov
SUBJECT: GoCalifornia Legislative Package

EXECUTIVE DIRECTOR'S APPROVAL



RECOMMENDED ACTION: Recommend a support position on AB 850, AB 1266, and SB 705 and a support in concept position in regard to the transportation provisions of ACA 4X.

SUMMARY:

Governor Schwarzenegger has proposed three bills and one constitutional amendment, collectively called GoCalifornia, to increase transportation funding and expedite project delivery. Assembly Bill 850 (Canciamilla, D-Pittsburg) promotes private-public partnerships and toll agreements; Assembly Bill 1266 (Niello, R-Fair Oaks) permits design-sequencing; SB 705 (Runner, R-Antelope Valley) allows design-build; and Assembly Constitutional Amendment 4X (Keene, R-Chico) on the state budget, education finance, and transportation funding protects Proposition 42 revenues from reallocation to the General Fund. Based on statements in the adopted 2005 SCAG State and Federal Legislative Program and the adopted 2004 Regional Transportation Plan, support is warranted for AB 850, AB 1266, and SB 705. Due to the uncertain outcome of negotiations surrounding transportation funding, a slightly tempered support in concept position is recommended for the transportation provisions of ACA 4X until more information is known.

BACKGROUND:

On February 24, 2005, Secretary of Business, Transportation and Housing (BT&H) Sunne Wright McPeak announced the introduction of three bills that, when teamed with Governor Arnold Schwarzenegger's budget reform constitutional amendment, would "[put] the 'go' back into California's transportation system." The legislative package, titled GoCalifornia, is comprised of Assembly Bill 850 (Canciamilla, D-Pittsburg) on private-public partnerships and toll agreements; Assembly Bill 1266 (Niello, R-Fair Oaks) on design-sequencing; SB 705 (Runner, R-Antelope Valley) on design-build; and Assembly Constitutional Amendment 4X (Keene, R-Chico) on the state budget, education finance, and transportation funding.

According to a BT&H press release, "GoCalifornia increases the sources of funding for state roads and highways and reduces red tape for transportation projects." Because the innovative financing, project expediting, and Proposition 42 protection provisions contained within GoCalifornia are supported by the adopted 2005 SCAG State and Federal Legislative Program (Legislative Program) and the adopted 2004 Regional Transportation Plan (RTP), staff recommends the Transportation and Communications Committee (TCC) recommend a support position to the Regional Council.

AB 850, introduced by Assembly Member Joe Canciamilla, allows the state to enter into 35-year long agreements with private entities to construct and operate toll roads, including dedicated truck lanes. Tolls may not be charged on high occupancy vehicles (HOV) lanes, but may be charged on other lanes. At the end of 35 years, the road's control reverts to the state, which may continue to collect tolls. The state must reimburse the private entity for projected losses in revenue if the state makes improvements in a corridor

deemed in competition with the toll facilities. AB 850 does not compel the state to enter into public-private agreements, nor does it convert existing free lanes into toll lanes.

The Legislative Program states, "Support legislation that promotes the use of public-private partnerships and other innovative financing mechanisms." Also, the RTP addresses high occupancy toll (HOT) lanes, stating "Given limited public funds to support transportation infrastructure development, HOT lanes would be considered for some new facilities." Those statements, in addition to the RTP's support for user fee-supported project financing for major regional investments like dedicated truck lanes, is consistent with AB 850's limitation to new construction and its project scope. A support position is warranted.

AB 1266, introduced by Assembly Member Roger Niello, enables Caltrans to use design-sequencing, the project delivery method that permits construction to begin as soon as the design is finished for each phase of a project. The bill eliminates the current pilot program, as well as the requirement for the establishment of a peer review committee and annual reports to the Legislature.

The Legislative Program states, "Support design-build and design-sequencing procurement procedures to expedite project delivery." AB 1266 is on-point with this position and warrants SCAG's support.

SB 705, introduced by Senator George Runner, allows Caltrans to utilize design-build when procuring new transportation projects. Caltrans currently uses design-bid-build, a process that can result in unnecessary delays and cost overruns. Design-build accelerated the completion of projects because a project is subject to a single-bid process. Costs are contained by construction efficiency. The same Legislative Program platform stated above is applicable to SB 705; staff recommends a support position.

ACA 4X, introduced by Assembly Member Rick Keene, places a constitutional amendment before the voters to provide ongoing spending authority in the event of a late budget, across-the-board spending cuts to prevent General Fund spending from exceeding revenues; changes the Proposition 98 minimum funding guarantee for K-14 education; protects Proposition 42 transportation funding; and prohibits General Fund borrowing from special funds. As it relates to transportation, ACA 4X repeals the authority to suspend Proposition 42 transfers, referred to as the firewall, and extends repayment of previously borrowed Proposition 42 funds for fifteen years without an inflationary factor. While stretching the repayment schedule, ACA 4X does authorize the state to bond the repayment obligation to generate immediate proceeds to fund transportation projects.

The Legislative Program advocates a constitutional amendment to protect Proposition 42 revenues from reallocation to the General Fund, a task ACA 4X would undertake. Similarly, the RTP calls for a constitutional amendment to "ensure Proposition 42 revenue is available when needed." As the most viable of the Proposition 42 firewall measures, ACA 4X has the Governor's support and would provide the constitutional fix transportation stakeholders have sought for two years. It comes with a price in the form of a likely Proposition 42 suspension in Fiscal Year 2006-2007.

As negotiations continue on the exact nature of the deal to be struck between the Governor, the Legislature, and transportation stakeholders, it would be premature to indicate a support position for the transportation provisions of ACA 4X when a better deal remains to be made. In the meantime, a support in concept position is merited, with a possible change to a support position later when more details are known. Staff recommends no position on sections of ACA 4X unrelated to transportation.

SUPPORT:

No agencies have offered support on any of the GoCalifornia bills as of March 16, 2005.

OPPOSE:

Opposition to ACA 4X has been lodged in regard to its education provisions, but not to its transportation provisions.

BILL STATUS:

AB 850 and AB 1266 are in the Assembly Transportation Committee; no hearings have been scheduled. SB 705 is in the Senate Transportation and Housing Committee; a hearing is scheduled for April 5th at 1:30pm. ACA 4X is in the Assembly Budget Process Committee; no hearing has been scheduled.

FISCAL IMPACT:

All work related to adopting the recommended staff action is contained within the adopted FY 04/05 budget and adopted 2005 SCAG Legislative Program and does not require the allocation of any additional financial resources.

CP#108679



BILL NUMBER: AB 850 INTRODUCED
BILL TEXT

INTRODUCED BY Assembly Member Canciamilla
(Principal coauthor: Assembly Member Benoit)
(Principal coauthor: Senator Runner)

FEBRUARY 18, 2005

An act to amend Section 143 of the Streets and Highways Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

AB 850, as introduced, Canciamilla. Toll road agreements.

Existing law, until January 1, 2003, authorized the Department of Transportation to solicit proposals and enter into agreements with private entities or consortia for the construction and lease of no more than 2 toll road projects, and specified the terms and requirements applicable to those projects.

This bill would instead authorize the department to enter into comprehensive development franchise agreements with public and private entities or consortia for specified types of transportation projects, as defined, subject to certain requirements and conditions. The bill would authorize tolls to be collected after the termination of a franchise agreement period, subject to approval of the California Transportation Commission. The bill would require a franchise agreement to allow the department to acquire by condemnation or negotiation the financial value of a competing toll facility if the department opens a competitive state facility in the same corridor. The bill would enact other related provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 143 of the Streets and Highways Code is amended to read:

143. (a) ~~The~~ Pursuant to Chapter 3
(commencing with Section 30800) of Division 17, the department may solicit proposals , negotiate, and enter into comprehensive development franchise agreements with public and private entities, or consortia thereof, for the construction ~~by, and lease to, private entities~~ of ~~two public~~ transportation ~~demonstration~~ projects. ~~The department shall not enter into an agreement for any new proposals under this authority after January 1, 2003~~ As used in this section, " transportation projects " means (1) shared high-occupancy vehicle (HOV) lanes where HOVs are permitted free passage, (2) dedicated exclusive truck lanes, (3) mixed-flow toll lanes and free lanes, and (4) toll lanes for all vehicles other than HOVs .(b) For the purpose of facilitating those transportation projects, the agreements between the parties may include provisions for limiting the department from initiating the opening to traffic of new competing state highway facilities within the same transportation corridor, for the lease of rights-of-way in, and airspace over or under,

(d) (1) Agreements entered into pursuant to this section shall authorize the ~~private~~ contracting entity to impose tolls for use of a facility constructed by it, and shall require that over the term of the ~~lease~~ franchise, that the toll revenues will be applied to payment of some or all of the ~~private entity's~~ capital outlay costs for the project, the costs associated with operations, toll collection, administration of the facility, reimbursement to the ~~state~~ department or other governmental entity for the costs of ~~maintenance and~~ services to develop and maintain the project, police services, and a reasonable return on investment to the private entity. The agreement shall require that any excess toll revenue either be applied to any indebtedness incurred by the private entity with respect to the project or be paid into the State Highway Account, or both.

(e) The plans and specifications for each transportation project constructed pursuant to this section shall comply with the department's then-existing standards for similar state transportation projects. A facility constructed by and leased to ~~a private~~ another entity shall, during the term of the lease, be deemed to be a part of the state highway system for purposes of identification, maintenance,

enforcement of traffic laws, and for the purposes of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

(f) The assignment authorized by subdivision (c) of Section 130240 of the Public Utilities Code is consistent with this section.

(g) Each franchise agreement entered into by the department shall include provisions authorizing the department to open competitive facilities to traffic within the designated corridor subject to the department exercising its police power to either acquire by condemnation or negotiation the remaining net fair market capitalized value of the toll franchise period equivalent to the projected lost annual income for the remaining term of the competition protection afforded by that agreement. The annual payments shall be determined by a projection of the average increase of net income over the previous five years of tolled operations, or less than five years if there have not been a full five years of consecutive operations of the facility. To the extent that the toll facility does not suffer a loss of net income equivalent to that projected in each year, the sum paid at the end of that fiscal year on June 30 shall be adjusted so that the department's payments are reduced accordingly.

article, these projects shall be deemed public works. ~~---(b) In selecting projects for the pilot program authorized under subdivision (a), the director shall attempt to balance geographical areas among test projects as well as pursue diversity in the types of projects undertaken. In this process, the director shall consider selecting projects that improve interregional and intercounty routes.~~

~~---(c) To the extent available, the department shall seek to incorporate existing knowledge and experience on design sequencing contracts in carrying out its responsibilities under subdivision (a).~~

~~---(d) This section shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2010, deletes or extends that date.~~

SEC. 3. Section 217.8 of the Streets and Highways Code is repealed.

~~217.8. (a) Not later than July 1, 2006, and July 1 of each subsequent year during which a contract under the phase two pilot program, as described in Section 217.7, is in effect, the department shall prepare a status report on its contracting methods, procedures, costs, and delivery schedules. Upon completion of all design sequencing contracts, but in no event later than January 1, 2010, the department shall establish a peer review committee or continue in existence the peer review committee created pursuant to former Section 217.4, which was added by Chapter 378 of the Statutes of 1999, and direct that committee to prepare a report for submittal to the Legislature that describes and evaluates the outcome of the contracts provided for in Section 217.7, stating the positive and negative aspects of using design sequencing as a contracting method. (b) This section shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2010, deletes or extends that date.~~

SEC. 4. Section 217.9 of the Streets and Highways Code is amended to read:

217.9. Design-sequencing contracts ~~under the phase two pilot program~~, as described in Section 217.7, shall be awarded in accordance with all of the following: (a) The department shall advertise design-sequencing projects by special public notice to contractors.

(b) Contractors shall be required to provide prequalification information establishing appropriate licensure and successful past experience with the proposed work.

~~---(c) This section shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2010, deletes or extends that date.~~

BILL NUMBER: SB 705 INTRODUCED
BILL TEXT

INTRODUCED BY Senator Runner
(Coauthors: Assembly Members Benoit and Sharon Runner)

FEBRUARY 22, 2005

An act to add Article 8 (commencing with Section 228) to Chapter 1 of Division 1 of the Streets and Highways Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

SB 705, as introduced, Runner. Design-build contracts.

Existing law makes the Department of Transportation responsible for improving and maintaining the state highway system. Under existing law, until January 1, 2010, the department is authorized to utilize design-sequencing as an alternative contracting method for the design and construction of not more than 12 transportation projects, as defined.

This bill would authorize the department to contract using the design-build process, as defined, for the design and construction of transportation projects. The bill would require the director of the department to establish a prequalification and selection process. Because the bill would make it a crime for a person to certify as true any fact on the declaration known by him or her to be false, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares the following: (a) Various public agencies throughout the country have been considering, and in some cases experimenting with, innovative contracting practices for public works with the goal of improving and reducing the cost of the public works contract process and reducing highway user delays, to the benefit of the public interest.

(b) The Federal Highway Administration has established an experimental project for the purpose of evaluating certain innovative contracting practices, including the use of design-build contracts, and has provided funding for the documentation, evaluation, and reporting of these activities.

SEC. 2. Article 8 (commencing with Section 228) is added to Chapter 1 of Division 1 of the Streets and Highways Code, to read:

Article 8. Design-Build Contracting Program

228. Notwithstanding any provision of the Public Contract Code or any other provision of law, the department may let design-build contracts for the design and construction of transportation projects selected by the director. For the purpose of this article, these projects shall be deemed public works.

228.1. The following definitions apply for purposes of this article: (a) "Best value" means a value determined by objective criteria and may include, but is not limited to, price, features, functions, life-cycle costs, and other criteria deemed appropriate by the department.

(b) "Design-build" means a procurement process in which both the design and construction of a project are procured from a single entity.

(c) "Design-build entity" means a partnership, corporation, or other legal entity that is able to provide appropriately licensed contracting, architectural, and engineering services as needed.

228.2. Prior to contracting for the procurement of state transportation projects, the director shall take all of the following actions: (a) Prepare a program setting forth the scope of the project that may include, but is not limited to, the size, type, and desired design character of the transportation project and site and performance specifications covering the quality of materials, equipment, and workmanship, or any other information deemed necessary to describe adequately the state's needs. The performance specifications shall be prepared by a design professional licensed and registered in the State of California.

(b) (1) Establish a competitive prequalification and selection process for design-build entities, including any subcontractors listed at the time of bid, that clearly specifies the prequalification criteria and the manner in which the winning entity will be selected.

(2) Prequalification shall be limited to the following criteria:

(A) Possession of all required licenses, registration, and credentials in good standing that are required to design and construct the project.

(B) Submission of evidence that establishes that the design-build entity members have completed, or demonstrated the capability to complete, projects of similar size, scope, or complexity and that proposed key personnel have sufficient experience and training to competently manage and complete the design and construction of the project.

(C) Submission of a proposed project management plan that establishes that the design-build entity has the experience, competence, and capacity needed to effectively complete the project.

(D) Submission of evidence that establishes that the design-build entity has the capacity to obtain all required payment and performance bonding, liability insurance, and errors and omissions insurance.

(E) Submission of a financial statement that assures the department that the design-build entity has the capacity to complete the project.

(F) Provision of a declaration certifying that the design-build entity members have not had a surety company finish work on any project within the last five years.

(G) Provision of information and a declaration providing details concerning all of the following:

(i) Any settlement or judgment in a construction or design claim or litigation totaling more than five hundred thousand dollars (\$500,000) or 5 percent of the annual value of work performed, whichever is less, against any member of the design-build entity within the last five years.

(ii) Any serious violation of the Occupational Safety and Health

Act, as provided in Part 1 (commencing with Section 6300) of Division 5 of the Labor Code, committed by any member of the design-build entity.

(iii) Any violation of federal or state law, including, but not limited to, those laws governing the payment of wages or benefits or personal income tax, Federal Insurance Contributions Act withholding, or state disability insurance withholding or unemployment insurance payment requirements against any member of the design-build entity within the last five years. For the purposes of this clause, only violations committed by a design-build member as an employer shall be included in the declaration. A violation by a subcontractor of the provisions of subdivision (b) of Section 1775 of the Labor Code shall be included in the declaration if the design-build member had knowledge of the violation.

(iv) Any violations of the Contractors' State License Law (Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code), excluding complaints the registrar found unsubstantiated.

(v) Any conviction of any member of the design-build entity for submitting a false or fraudulent claim to a public agency over the last five years.

(H) Submission of the questionnaire required by Section 10162 of the Public Contract Code under penalty of perjury.

(I) Provision of a declaration that the design-build entity will comply with all other provisions of law applicable to the project, including, but not limited to, the requirements of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

(3) Any declaration required under paragraph (2) shall state that reasonable diligence has been used in its preparation and that it is true and complete to the best of the signer's knowledge. A person who certifies as true any material matter that he or she knows to be false is guilty of a misdemeanor and shall be punished by not more than one year in a county jail, by a fine of not more than five thousand dollars (\$5,000), or by both the fine and imprisonment.

228.3. (a) The department, in each design-build request for proposal, may identify types of subcontractors by subcontractor license classification, that will be listed by the design-build entity at the time of the bid. In selecting the subcontractors that will be listed by the design-build entity, the department shall limit the identification to only those license classifications deemed essential for proper completion of the project. The department shall not specify more than five licensed subcontractor classifications.

(b) At its discretion, the design-build entity may list an additional two subcontractors, identified by subcontractor license classification, that will perform design or construction work, or both, on the project. The design-build entity shall not list at the time of bid, a total of more than seven subcontractor license classifications on a project.

(c) All subcontractors that are listed at the time of bid shall be afforded all of the protection contained in Chapter 4 (commencing with Section 4100) of Part 1 of Division 2 of the Public Contract Code.

228.4. (a) All subcontracts that are not to be performed by the design-build entity shall be competitively bid and awarded by the design-build entity, in accordance with the design-build process set forth by the department in the design-build package. (b) The design-build entity shall do all of the following in bidding and awarding the subcontractors:

(1) Provide public notice of the availability of work to be subcontracted in accordance with Section 10140 of the Public Contract Code.

(2) Provide a fixed date and time at which the subcontracted work

will be awarded in accordance with Section 10141 of the Public Contract Code.

(3) As authorized by the department, establish reasonable prequalification criteria and standards, limited in scope to those described in Section 228.2.

(4) Provide that the subcontracted work shall be awarded to the lowest responsible bidder.

228.5. The department shall establish technical criteria and methodology, including price, to evaluate proposals and shall describe the criteria and methodology in the request for design-build proposals. The award shall be made to the design-build entity whose proposal is judged as providing the best value in meeting the interest of the department and meeting the objectives of the project.

228.6. (a) Any design-build entity that is selected to design and build a project pursuant to this section shall possess or obtain sufficient bonding as required by applicable provisions of the Public Contract Code or the California Toll Bridge Authority Act (Chapter 1 (commencing with Section 30000) of Division 17). Nothing in this section shall prohibit a general or engineering contractor from being designated the lead entity on a design-build entity for the purposes of purchasing necessary bonding to cover the activities of the design-build entity. (b) Any payment or performance bond written for the purposes of this section shall use a bond form developed by the Department of General Services. In developing the bond form, the department shall consult with the surety industry to achieve a bond form that is consistent with surety industry standards, while protecting the interests of the state.

SEC. 3.

No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

BILL NUMBER: ACAX1 4 AMENDED
BILL TEXT

AMENDED IN ASSEMBLY FEBRUARY 24, 2005

INTRODUCED BY Assembly Member Keene

JANUARY 20, 2005

A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Sections 10 and 12 of Article IV thereof, by amending Section 6 of Article XIII B thereof, by amending Section 8 of Article XVI thereof, by amending Section 6 of Article XIX thereof, by repealing Section 1 of Article XIX A thereof, and by amending Section 1 of Article XIX B thereof, relating to state finance.

LEGISLATIVE COUNSEL'S DIGEST

ACA 4, as amended, Keene. State finances.

(1) The California Constitution provides, commencing in the 2004-05 fiscal year, that if, following the enactment of the annual Budget Bill, the Governor determines either that General Fund revenues will decline substantially below the estimate of General Fund revenues upon which the Budget Bill for that fiscal year was based, or that General Fund expenditures will increase substantially above that estimate of General Fund revenues, or both, the Governor is authorized to issue a proclamation declaring a fiscal emergency and is thereupon required to cause the Legislature to assemble in special session. These provisions require that the proclamation identify the nature of the fiscal emergency and be accompanied by proposed legislation to address the fiscal emergency. If the Legislature fails to pass and send to the Governor a bill or bills to address the fiscal emergency by the 45th day following the issuance of the proclamation, the Legislature is prohibited from acting on any other bills and may not adjourn for a joint recess, until that bill or those bills have been passed and sent to the Governor. Existing law also provides for a Budget Stabilization Account into which the Controller is required to transfer specified sums of General Fund moneys, for use as specified.

This measure would require, rather than authorize, the Governor to issue a proclamation declaring a fiscal emergency, and specify that the proclamation would be issued when the Governor determines ~~either that General Fund revenues will decline below the estimate of General Fund revenues upon which the Budget Bill for that fiscal year was based, or that the sum of General Fund expenditures will increase above that estimate of General Fund revenues, or both,~~ and the amount of General Fund moneys transferred to the Budget Stabilization Account for a fiscal year will exceed General Fund revenues for that fiscal year by at least \$250,000,000, adjusted to reflect the rate of inflation shown in the California consumer price index as determined by the Director of Finance. The measure would also require, as an additional consequence if the Legislature fails to pass a bill or bills to address the fiscal emergency by the 45th day, or under specified circumstances, by the 30th day, that reductions be imposed, on a pro rata basis, on all General Fund appropriations enacted on or before the date of the proclamation, by a percentage estimated by the Director of Finance to cause total General Fund ~~appropriations~~ expenditures

been paid prior to the 2005-06 fiscal year may be paid over a term of years, as prescribed by law. Existing statutory law provides that these claims be paid over a period not to exceed 5 years.

This measure would provide that the term of years over which payable claims shall be paid shall not exceed 15 years.

(6) Existing provisions of the California Constitution require that specified state funds be applied annually for the support of school districts and community college districts in an amount not less than the greater of the amounts calculated under 3 different tests: ~~-(1)-~~ (a) the amount that as a percentage of General Fund revenues appropriated for school districts and community college districts is equal to the percentage of General Fund revenues appropriated for that purpose in the 1986-87 fiscal year (Test 1), ~~-(2)-~~ (b) the amount required to ensure that the total allocations to school districts and community college districts from General Fund proceeds of taxes and allocated local proceeds of taxes are not less than the total amount from these sources in the prior fiscal year adjusted for changes in enrollment and cost of living, operative only in a fiscal year in which the percentage growth in per capita personal income is less than or equal to the percentage growth in per capita General Fund revenues plus ~~-.5%~~ 0.5% (Test 2), or ~~-(3)-~~ (c) the amount calculated pursuant to Test 2, but adjusted for changes in enrollment and the change in per capita General Fund revenues, operative only when the percentage growth in per capita personal income is greater than the percentage growth in per capita General Fund revenues plus ~~-.5%~~ 0.5% (Test 3).

Existing provisions of the California Constitution also permit the suspension of these provisions by the Legislature, with certain requirements, and provide that school districts or community college districts are entitled to a maintenance factor, as specified, if these provisions are suspended by the Legislature, or if funding of the public education system is computed pursuant to Test 3, as described above.

This measure would ~~provide that~~ repeal the provisions setting forth Test 3 as an alternative calculation to be used in determining the minimum annual amount required to be appropriated for the support of school districts and community college districts ~~are not operative in fiscal years succeeding the fiscal year in which this measure became effective~~, ~~and would provide that~~ repeal the authority to suspend the requirement to appropriate that minimum annual funding guarantee ~~applies only to those fiscal years preceding the fiscal year that commences subsequent to the effective date of this measure~~, and would repeal the related provisions providing for maintenance factors. This measure would require that the total outstanding amount of any maintenance factors under the repealed provisions be repaid in total no later than July 1, 2021, and that the amount of that repayment be excluded from consideration in calculating the minimum funding guarantee for the 2005-06 fiscal year, and any subsequent fiscal year.

This measure would provide, as specified, that appropriations made for ~~a~~ the 2005-06 fiscal year, or any subsequent fiscal year, that exceed the minimum funding guarantee for that fiscal year are excluded from consideration in calculating the minimum funding guarantee for any subsequent fiscal year, as determined under Test 2 ~~, unless the statute making such an appropriation specifies otherwise~~.

This measure would require any balance of amounts that were required to be allocated under the existing minimum annual funding

guarantee for the 2003-04 fiscal year or any preceding fiscal year, but *that* were not allocated as of the effective date of this measure, to be repaid in total, on a specified allocated basis, within 15 years from that date.

This measure would further provide that the balance of any amounts required under the annual funding guarantee to be allocated to school districts and community college districts for the 2004-05 fiscal year, or any subsequent fiscal year, that ~~were~~

was not allocated prior to the end of that fiscal year ~~are~~ is continuously appropriated to the Controller from the General Fund for allocation to school districts and community college districts upon the certification of the final data necessary for the calculation of the annual funding guarantee by the Department of Finance and the Superintendent of Public Instruction, subject to certain requirements. The measure would permit the Legislature to require a school district or community college district to use those funds for a specified purpose.

(7) Existing provisions of the California Constitution require sales taxes on motor vehicle fuel that are deposited in the General Fund to be transferred to the Transportation Investment Fund for allocation to various transportation purposes. These provisions authorize the transfer of these revenues to the Transportation Investment Fund to be suspended, in whole or in part, for a fiscal year during a fiscal emergency pursuant to a proclamation issued by the Governor and the enactment of a statute by a 2/3 vote of both houses of the Legislature, if the statute does not contain any unrelated provision.

This measure instead would provide that the transfer of revenues from the General Fund to the Transportation Investment Fund may be suspended, in whole or in part, and subject to these conditions, for any fiscal year preceding the 2007-08 fiscal year.

The measure would also require that the total amount, as of July 1, 2007, of revenues that were not transferred from the General Fund to the Transportation Investment Fund because of a suspension pursuant to these provisions be repaid to the Transportation Investment Fund no later than June 30, 2022, and that until the total amount has been repaid, the amount of repayment to be made in each fiscal year shall not be less than 1/15 of the total amount due. It would authorize the Legislature to provide by statute for the issuance of bonds secured by these payments, with the proceeds to be used for purposes consistent with the provisions governing the Transportation Investment Fund, and for costs associated with the issuance and sale of the bonds.

(8) *This measure would declare that its provisions are severable, and that any invalidity of one of its provisions or applications shall not affect other provisions or applications that can be given effect without the invalid provision or application.*

Vote: 2/3. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its 2005 -06 Regular Session commencing on the sixth day of December 2004, two-thirds of the membership of each house concurring, hereby proposes to the people of the State of California, that the Constitution of the State be amended as follows:

First--That Section 10 of Article IV thereof is amended to read:

SEC. 10. (a) Each bill passed by the Legislature shall be presented to the Governor. It becomes a statute if it is signed by

the Governor. The Governor may veto it by returning it with any objections to the house of origin, which shall enter the objections in the journal and proceed to reconsider it. If each house then passes the bill by rollcall vote entered in the journal, two-thirds of the membership concurring, it becomes a statute. (b) (1) Any bill, other than a bill which would establish or change boundaries of any legislative, congressional, or other election district, passed by the Legislature on or before the date the Legislature adjourns for a joint recess to reconvene in the second calendar year of the biennium of the legislative session, and in the possession of the Governor after that date, that is not returned within 30 days after that date becomes a statute.

(2) Any bill passed by the Legislature before September 1 of the second calendar year of the biennium of the legislative session and in the possession of the Governor on or after September 1 that is not returned on or before September 30 of that year becomes a statute.

(3) Any other bill presented to the Governor that is not returned within 12 days becomes a statute.

(4) If the Legislature by adjournment of a special session prevents the return of a bill with the veto message, the bill becomes a statute unless the Governor vetoes the bill within 12 days after it is presented by depositing it and the veto message in the office of the Secretary of State.

(5) If the 12th day of the period within which the Governor is required to perform an act pursuant to paragraph (3) or (4) of this subdivision is a Saturday, Sunday, or holiday, the period is extended to the next day that is not a Saturday, Sunday, or holiday.

(c) Any bill introduced during the first year of the biennium of the legislative session that has not been passed by the house of origin by January 31 of the second calendar year of the biennium may no longer be acted on by the house. No bill may be passed by either house on or after September 1 of an even-numbered year except statutes calling elections, statutes providing for tax levies or appropriations for the usual current expenses of the State, and urgency statutes, and bills passed after being vetoed by the Governor.

(d) The Legislature may not present any bill to the Governor after November 15 of the second calendar year of the biennium of the legislative session.

(e) The Governor may reduce or eliminate one or more items of appropriation while approving other portions of a bill. The Governor shall append to the bill a statement of the items reduced or eliminated with the reasons for the action. The Governor shall transmit to the house originating the bill a copy of the statement and reasons. Items reduced or eliminated shall be separately reconsidered and may be passed over the Governor's veto in the same manner as bills.

(f) (1) ~~If , following the enactment of the budget bill for the 2004-05 fiscal year or any subsequent fiscal year, the Governor determines that, for that fiscal year, General Fund revenues will decline below the estimate of General Fund revenues upon which the budget bill for that fiscal year, as enacted, was based, or General Fund expenditures will increase above that estimate of General Fund revenues, or both,~~ the Governor determines that the sum of General Fund expenditures and the amount of General Fund moneys transferred to the Budget Stabilization Account pursuant to Section 20 of Article XVI for a fiscal year will exceed General Fund revenues for that fiscal year by at least two hundred fifty million dollars (\$250,000,000), adjusted to reflect the rate of inflation shown in the ~~appropriate~~ California consumer price index as ~~identified~~ determined by the Director of Finance, the Governor shall issue a proclamation declaring a fiscal emergency and

shall thereupon cause the Legislature to assemble in special session for this purpose. The proclamation shall identify the nature of the fiscal emergency and shall be submitted by the Governor to the Legislature, accompanied by proposed legislation to address the fiscal emergency.

(2) If the Legislature fails to pass and send to the Governor a bill or bills to address the fiscal emergency by the 45th day following the issuance of the proclamation, or the 30th day if appropriation authority is currently provided pursuant to subdivision (g) of Section 12, all of the following shall occur:

(A) The Legislature may not act on any other bill, nor may the Legislature adjourn for a joint recess, until that bill or those bills have been passed and sent to the Governor.

(B) (i) Notwithstanding any other provision of this Constitution, all General Fund appropriations enacted on or before the date of the issuance of the proclamation shall be reduced, on a pro rata basis, by that percentage that the Director of Finance estimates will cause total General Fund ~~appropriations~~ expenditures, and the amount of any General Fund moneys transferred to the Budget Stabilization Account for that fiscal year pursuant to Section 20 of Article XVI, not to exceed General Fund revenues by the end of that fiscal year. The Controller shall implement this subparagraph by applying the percentage estimated by the Director of Finance to every payment of General Fund moneys in a warrant that is issued under the authority of any affected appropriation. ~~In addition, the amount of any payment that is calculated pursuant to state statute, and issued by a government entity other than the Controller, shall, to the extent funded from the General Fund of the State, be reduced as necessary to reflect the reduction required by this subparagraph.~~ Benefits and services, including any entitlement created by state law, shall be provided at a level or in an amount consistent with the reduction in payment required under this subparagraph. In addition, the amount of any payment that is calculated pursuant to state law, and issued by a government entity, including a local government agency, other than the Controller, shall, to the extent funded from the General Fund of the state, be reduced by the same percentage that payment of General Fund moneys are reduced pursuant to this subparagraph, and any local funds that are required to be expended as a condition of the availability of state funds under that calculation shall be similarly reduced by the local entity.

(ii) This subparagraph shall not apply to a payment required by ~~federal law, the United States Constitution,~~ or to a payment required to meet obligations with respect to state bonded indebtedness ~~, or a payment required under a contract, collective bargaining agreement, or other entitlement under law for which liability of the State for payment arose before the effective date of the measure that added this subparagraph.~~

(iii) Notwithstanding any other provision of this Constitution, this subparagraph shall apply to any General Fund payment made with respect to any contract, collective bargaining agreement, or other entitlement under law for which liability of the State to pay arises on or after the effective date of the measure that added this subparagraph. This subparagraph shall be deemed to be included in every contract or other agreement to which the State is a party and any provision of state law under which the State is to make any payment.

(iv) The reduction authority set forth in this subparagraph applies until the effective date, no later than the end of that fiscal year, of a proclamation issued by the Governor declaring the end of the fiscal emergency.

(3) A bill addressing the fiscal emergency declared pursuant to

Second--That Section 12 of Article IV thereof is amended to read:

by state law during the portion of the fiscal year for which this subdivision is operative, the entitlement shall be deemed limited, for that portion of the fiscal year, to the amount of funds appropriated pursuant to this subdivision for that purpose .

The appropriation authority set forth in this subdivision applies until ~~the effective date of the budget act enacted for that fiscal year.~~ the effective date of the Budget Act for that fiscal year. For so long as the appropriation authority set forth in this subdivision applies to a fiscal year, the amount of any continuous appropriation from the General Fund of the State for that fiscal year, including the continuous appropriation from the State School Fund pursuant to Section 6 of Article IX, shall not exceed the amount appropriated pursuant to that continuous appropriation for the immediately preceding fiscal year.

(h) (1) On and after July 1, 2006, funds may not be transferred from a special fund to the General Fund as a loan. Any funds transferred prior to that date from a special fund to the General Fund for the purpose of making a loan to the General Fund and not repaid to that special fund by July 1, 2006, shall be repaid to that special fund no later than July 1, 2021.

(2) The prohibition contained in this subdivision does not apply to loans made for the purpose of meeting the short-term ~~cash flow~~ cashflow needs of the State if any amount owed is to be repaid in full to the fund from which it was borrowed ~~during the same fiscal year in which the loan was made, or if repayment is to be made no later than a date not more than 30 days after the date of enactment of the budget bill for the subsequent fiscal year.~~ prior to the date when the transfer would interfere with the carrying out of any object for which the special fund was created.

Third--That Section 6 of Article XIII B thereof is amended to read:

SEC. 6. (a) Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the State shall provide a subvention of funds to reimburse that local government for the costs of the program or increased level of service, except that the Legislature may, but need not, provide a subvention of funds for the following mandates: (1) Legislative mandates requested by the local agency affected.

(2) Legislation defining a new crime or changing an existing definition of a crime.

(3) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975.

(b) (1) Except as provided in paragraph (2), for the 2005-06 fiscal year and every subsequent fiscal year, for a mandate for which the costs of a local government claimant have been determined in a preceding fiscal year to be payable by the State pursuant to law, the Legislature shall either appropriate, in the annual Budget Act, the full payable amount that has not been previously paid, or suspend the operation of the mandate for the fiscal year for which the annual Budget Act is applicable in a manner prescribed by law. A reduction in an appropriation pursuant to subparagraph (B) of paragraph (2) of subdivision (f) of Section (10) of Article IV shall not be deemed to reduce the reimbursement amount to which a local agency is entitled pursuant to this section.

(2) Payable claims for costs incurred prior to the 2004-05 fiscal year that have not been paid prior to the 2005-06 fiscal year shall be paid over a term of not more than 15 years, as prescribed by law.

(3) Ad valorem property tax revenues shall not be used to reimburse a local government for the costs of a new program or higher level of service.

(4) This subdivision applies to a mandate only as it affects a city, county, city and county, or special district.

(5) This subdivision shall not apply to a requirement to provide or recognize any procedural or substantive protection, right, benefit, or employment status of any local government employee or retiree, or of any local government employee organization, that arises from, affects, or directly relates to future, current, or past local government employment and that constitutes a mandate subject to this section.

(c) A mandated new program or higher level of service includes a transfer by the Legislature from the State to cities, counties, cities and counties, or special districts of complete or partial financial responsibility for a required program for which the State previously had complete or partial financial responsibility.

Fourth--That Section 8 of Article XVI thereof is amended to read:

SEC. 8. (a) From all state revenues there shall first be set apart the moneys to be applied by the State for support of the public school system and public institutions of higher education. (b) Commencing with the 1990-91 fiscal year, the moneys to be applied by the State for the support of school districts and community college districts shall be not less than the greater of either of the following amounts:

(1) The amount that, as a percentage of General Fund revenues that may be appropriated pursuant to Article XIII B, equals the percentage of General Fund revenues appropriated for school districts and community college districts, respectively, in the 1986-87 fiscal year.

(2) The amount required to ensure that the total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B and allocated local proceeds of taxes are not less than the total amount from these sources in the prior fiscal year, excluding any revenues allocated pursuant to subdivision (a) of Section 8.5, adjusted for changes in enrollment and adjusted for the change in the cost of living pursuant to paragraph (1) of subdivision (e) of Section 8 of Article XIII B. ~~This paragraph is operative only in a fiscal year in which the percentage growth in California per capita personal income is less than or equal to the percentage growth in per capita General Fund revenues plus one half of one percent.~~

~~(3) (A) The amount required to ensure that the total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B and allocated local proceeds of taxes shall equal the total amount from these sources in the prior fiscal year, excluding any revenues allocated pursuant to subdivision (a) of Section 8.5, adjusted for changes in enrollment and adjusted for the change in per capita General Fund revenues.~~

~~(B) In addition, an amount equal to one half of one percent times the prior year total allocations to school districts and community colleges from General Fund proceeds of taxes appropriated pursuant to Article XIII B and allocated local proceeds of taxes, excluding any revenues allocated pursuant to subdivision (a) of Section 8.5, adjusted for changes in enrollment.~~

~~(C) This paragraph shall be operative only in a fiscal year in which the percentage growth in California per capita personal income in a fiscal year is greater than the percentage growth in per capita General Fund revenues plus one half of one percent.~~

~~(D) This paragraph is not operative in any fiscal year succeeding the fiscal year in which the measure that added this subparagraph became effective.~~

(c) In any fiscal year, if the amount computed pursuant to

paragraph (1) of subdivision (b) exceeds the amount computed pursuant to paragraph (2) of subdivision (b) by a difference that exceeds one and one-half percent of General Fund revenues, the amount in excess of one and one-half percent of General Fund revenues shall not be considered allocations to school districts and community colleges for purposes of computing the amount of state aid pursuant to paragraph (2) of subdivision (b) in the subsequent fiscal year.

(d) If, for ~~any~~ the 2005-06 fiscal year, or any subsequent fiscal year, an amount is appropriated for the support of school districts and community college districts in excess of the minimum amount required to be appropriated for that fiscal year pursuant to subdivision (b), the excess amount so appropriated shall not be deemed an allocation to school districts and community college districts for purposes of calculating the moneys to be applied by the State for the support of those entities for any subsequent fiscal year pursuant to paragraph (2) of subdivision (b) ~~, unless the statute making that excess appropriation specifies that this exclusion does not apply~~.

(e) (1) The total amount of any outstanding maintenance factors, arising pursuant to former subdivision (d) for one or more fiscal years preceding the ~~fiscal year that commences subsequent to the effective date of the measure that added this subdivision~~ 2005-06 fiscal year, shall be repaid no later than July 1, 2021. The repayment of any maintenance factor pursuant to this paragraph for any fiscal year shall be divided between school districts and community college districts in the same proportion that allocations for that fiscal year that were made prior to the effective date of the measure that added this subdivision were apportioned to school districts and community college districts. The payment of a maintenance factor amount in ~~any fiscal year~~ the 2005-06 fiscal year, or any subsequent fiscal year, shall not be deemed an allocation to school districts and community college districts for purposes of calculating the moneys to be applied by the State for the support of those entities for any subsequent fiscal year pursuant to paragraph (2) of subdivision (b).

(2) The balance of any amounts that were required by this section to be allocated to school districts and community college districts for the 2003-04 fiscal year, or any preceding fiscal year, but were not allocated as of the effective date of the measure that added this subdivision, shall be allocated no later than 15 years following that date. The total amount of augmentations allocated pursuant to this paragraph for any fiscal year shall be divided between school districts and community college districts in the same proportion that allocations for that fiscal year that were made prior to the effective date of the measure that added this subdivision were apportioned to school districts and community college districts.

(3) (A) The balance of any amounts that are required by this section to be allocated to school districts and community college districts, for the 2004-05 fiscal year, or any subsequent fiscal year, but are not allocated as of the end of that fiscal year, are continuously appropriated to the Controller from the General Fund of the State for allocation to school districts and community college districts upon the certification by the Department of Finance and the Superintendent of Public Instruction of the final data necessary to perform the calculations required pursuant to subdivision (b). That certification shall be completed within 24 months subsequent to the end of the fiscal year. The amount appropriated pursuant to this paragraph shall be divided between school districts and community college districts in the same proportion that allocations were made during that fiscal year to school districts and community college districts.

(B) The Legislature may require, in the ~~budget act~~
Budget Act or any other statute, that a school district or community college district use funds allocated pursuant to this paragraph for a specified purpose.

(f) (1) Payable claims for state-mandated costs incurred prior to the 2004-05 fiscal year by a school district or community college district that have not been paid prior to the 2005-06 fiscal year shall be paid no later than the 2020-21 fiscal year.

(2) Amounts allocated to a school district or community college district for a fiscal year pursuant to subdivision (b) shall first be expended by the district to pay the costs for state mandates incurred during that fiscal year.

(g) (1) For purposes of this section, "changes in enrollment" shall be measured by the percentage change in average daily attendance. However, in any fiscal year, there shall be no adjustment for decreases in enrollment between the prior fiscal year and the current fiscal year unless there have been decreases in enrollment between the second prior fiscal year and the prior fiscal year and between the third prior fiscal year and the second prior fiscal year.

(2) For purposes of this section, "maintenance factor" means the difference between (A) the amount of General Fund moneys that would have been appropriated for a fiscal year pursuant to paragraph (2) of subdivision (b) if that paragraph, rather than former paragraph (3) of that subdivision, had been operative or, as applicable, the amount of General Fund moneys that would have been appropriated for a fiscal year pursuant to subdivision (b) had subdivision (b) not been suspended pursuant to a statute enacted prior to ~~January~~

July 1, 2005, and (B) the amount of General Fund moneys actually appropriated to school districts and community college districts for that fiscal year.

~~(h) (1) Subparagraph (B) of paragraph (3) of subdivision (b) may be suspended for one year only when made part of or included within any bill enacted pursuant to Section 12 of Article IV. All other provisions of subdivision (b) may be suspended for one year by the enactment of an urgency statute pursuant to Section 8 of Article IV, provided that the urgency statute may not be made part of or included within any bill enacted pursuant to Section 12 of Article IV.~~

~~(2) This subdivision is not operative in any fiscal year succeeding the fiscal year in which the measure that added this paragraph became effective.~~

Fifth--That Section 6 of Article XIX thereof is amended to read:

SEC. 6. ~~Nothing in subdivision~~
 Subdivision (h) of Section 12 of Article IV ~~prohibits~~
 does not prohibit the Legislature from authorizing, by statute, loans to local transportation agencies, cities, counties, or cities and counties, from funds that are subject to this article, for the purposes authorized under this article. Any loan authorized as described by this section shall be repaid, with interest at the rate paid on money in the Pooled Money Investment Account, or any successor to that account, during the period of time that the money is loaned, to the fund from which it was borrowed, not later than four years after the date on which the loan was made.

Sixth--That Section 1 of Article XIX A thereof is repealed.

Seventh--That Section 1 of Article XIX B thereof is amended to read:

SECTION 1. (a) For the 2003-04 fiscal year and each fiscal year thereafter, all moneys that are collected during the fiscal year from taxes under the Sales and Use Tax Law (Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code), or any successor to that law, upon the sale, storage, use, or other

consumption in this State of motor vehicle fuel, and that are deposited in the General Fund of the State pursuant to that law, shall be transferred to the Transportation Investment Fund, which is hereby created in the State Treasury. (b) (1) For the 2003-04 to 2007-08 fiscal years, inclusive, moneys in the Transportation Investment Fund shall be allocated, upon appropriation by the Legislature, in accordance with Section 7104 of the Revenue and Taxation Code as that section read on March 6, 2002.

(2) For the 2008-09 fiscal year and each fiscal year thereafter, moneys in the Transportation Investment Fund shall be allocated solely for the following purposes:

(A) Public transit and mass transportation.

(B) Transportation capital improvement projects, subject to the laws governing the State Transportation Improvement Program, or any successor to that program.

(C) Street and highway maintenance, rehabilitation, reconstruction, or storm damage repair conducted by cities, including a city and county.

(D) Street and highway maintenance, rehabilitation, reconstruction, or storm damage repair conducted by counties, including a city and county.

(c) For the 2008-09 fiscal year and each fiscal year thereafter, moneys in the Transportation Investment Fund shall be allocated, upon appropriation by the Legislature, as follows:

(1) Twenty percent of the moneys for the purposes set forth in subparagraph (A) of paragraph (2) of subdivision (b).

(2) Forty percent of the moneys for the purposes set forth in subparagraph (B) of paragraph (2) of subdivision (b).

(3) Twenty percent of the moneys for the purposes set forth in subparagraph (C) of paragraph (2) of subdivision (b).

(4) Twenty percent of the moneys for the purpose set forth in subparagraph (D) of paragraph (2) of subdivision (b).

(d) (1) The transfer of revenues from the General Fund of the State to the Transportation Investment Fund pursuant to subdivision (a) may be suspended, in whole or in part, for any fiscal year preceding the 2007-08 fiscal year if both of the following conditions are met:

(A) The Governor has issued a proclamation that declares that the transfer of revenues pursuant to subdivision (a) will result in a significant negative fiscal impact on the range of functions of government funded by the General Fund of the State.

(B) The Legislature enacts by statute, pursuant to a bill passed in each house of the Legislature by rollcall vote entered in the journal, two-thirds of the membership concurring, a suspension for that fiscal year of the transfer of revenues pursuant to subdivision (a), provided that the bill does not contain any other unrelated provision.

(2) (A) The total amount, as of July 1, 2007, of revenues that were not transferred from the General Fund of the State to the Transportation Investment Fund because of a suspension pursuant to this subdivision shall be repaid to the Transportation Investment Fund no later than June 30, 2022. Until that total amount has been repaid, the amount of that repayment to be made in each fiscal year shall not be less than 1/15 of the total amount due.

(B) ~~The~~ Notwithstanding Article XVI, the Legislature may provide by statute for the issuance of bonds by the State or local agencies, as applicable, that are secured by the payments required by this paragraph. Proceeds of the sale of the bonds shall be applied for purposes consistent with this article, and for costs associated with the issuance and sale of the bonds.

(e) The Legislature may enact a statute that modifies the percentage shares set forth in subdivision (c) by a bill passed in each house of the Legislature by rollcall vote entered in the

journal, two-thirds of the membership concurring, provided that the bill does not contain any other unrelated provision and that the moneys described in subdivision (a) are expended solely for the purposes set forth in paragraph (2) of subdivision (b).

Eighth--That the provisions of this measure are severable. If any provision of this measure or its application is held unconstitutional or otherwise invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application. Title - Line 1. Digest - Pages 2 & 6. Text - Pages 9, 15, & 19.